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LRB094 05993 LCB 46208 a

1 AMENDMENT TO SENATE BILL 98

2 AMENDMENT NO. _____. Amend Senate Bill 98 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Marriage and Dissolution of
5 Marriage Act is amended by changing Sections 602 and 602.1 and
6 by adding Section 601.5 as follows:

7 (750 ILCS 5/601.5 new)

8 Sec. 601.5. Training. The Supreme Court of Illinois,
9 through its Administrative Office of the Illinois Courts, shall
10 approve 3 hours of training for guardian ad litem appointed
11 under Section 601 of this Act, professional personnel appointed
12 under Section 604 of this Act, evaluators appointed under
13 Section 604.5 of this Act, and investigators appointed under
14 Section 605 of this Act. This training shall include a
15 component on the dynamics of domestic violence and its effect
16 on parents and children.

17 (750 ILCS 5/602) (from Ch. 40, par. 602)

18 Sec. 602. Best Interest of Child.

19 (a) The court shall determine custody in accordance with
20 the best interest of the child. The court shall consider all
21 relevant factors including:

22 (1) the wishes of the child's parent or parents as to
23 his custody;

- 1 (2) the wishes of the child as to his custodian;
- 2 (3) the interaction and interrelationship of the child
3 with his parent or parents, his siblings and any other
4 person who may significantly affect the child's best
5 interest;
- 6 (4) the child's adjustment to his home, school and
7 community;
- 8 (5) the mental and physical health of all individuals
9 involved;
- 10 (6) the physical violence or threat of physical
11 violence by the child's potential custodian, whether
12 directed against the child or directed against another
13 person;
- 14 (7) the occurrence of ongoing or repeated abuse as
15 defined in Section 103 of the Illinois Domestic Violence
16 Act of 1986, whether directed against the child or directed
17 against another person; and
- 18 (8) the willingness and ability of each parent to
19 facilitate and encourage a close and continuing
20 relationship between the other parent and the child.

21 In the case of a custody proceeding in which a stepparent
22 has standing under Section 601, it is presumed to be in the
23 best interest of the minor child that the natural parent have
24 the custody of the minor child unless the presumption is
25 rebutted by the stepparent.

26 (b) The court shall not consider conduct of a present or
27 proposed custodian that does not affect his relationship to the
28 child.

29 (c) Unless the court finds the occurrence of ongoing abuse
30 as defined in Section 103 of the Illinois Domestic Violence Act
31 of 1986, the court shall presume that the maximum involvement
32 and cooperation of both parents regarding the physical, mental,
33 moral, and emotional well-being of their child is in the best
34 interest of the child. There shall be no presumption in favor

1 of or against joint custody.

2 (Source: P.A. 90-782, eff. 8-14-98.)

3 (750 ILCS 5/602.1) (from Ch. 40, par. 602.1)

4 Sec. 602.1. (a) The dissolution of marriage, the
5 declaration of invalidity of marriage, the legal separation of
6 the parents, or the parents living separate and apart shall not
7 diminish parental powers, rights, and responsibilities except
8 as the court for good reason may determine under the standards
9 of Section 602.

10 (b) Upon the application of either or both parents, or upon
11 its own motion, the court shall consider an award of joint
12 custody. Joint custody means custody determined pursuant to a
13 Joint Parenting Agreement or a Joint Parenting Order. In such
14 cases, the court shall initially request the parents to produce
15 a Joint Parenting Agreement. Such Agreement shall specify each
16 parent's powers, rights and responsibilities for the personal
17 care of the child and for major decisions such as education,
18 health care, and religious training. The Agreement shall
19 further specify a procedure by which proposed changes, disputes
20 and alleged breaches may be mediated or otherwise resolved and
21 shall provide for a periodic review of its terms by the
22 parents. In producing a Joint Parenting Agreement, the parents
23 shall be flexible in arriving at resolutions which further the
24 policy of this State as expressed in Sections 102 and 602. For
25 the purpose of assisting the court in making a determination
26 whether an award of joint custody is appropriate, the court may
27 order mediation and may direct that an investigation be
28 conducted pursuant to the provisions of Section 605. If there
29 is a danger to the health or safety of a partner, joint
30 mediation shall not be required by the court. In the event the
31 parents fail to produce a Joint Parenting Agreement, the court
32 may enter an appropriate Joint Parenting Order under the
33 standards of Section 602 which shall specify and contain the

1 same elements as a Joint Parenting Agreement, or it may award
2 sole custody under the standards of Sections 602, 607, and 608.

3 (c) The court may enter an order of joint custody if it
4 determines that joint custody would be in the best interests of
5 the child, taking into account the following:

6 (1) the ability of the parents to cooperate effectively
7 and consistently in matters that directly affect the joint
8 parenting of the child. "Ability of the parents to
9 cooperate" means the parents' capacity to substantially
10 comply with a Joint Parenting Order. The court shall not
11 consider the inability of the parents to cooperate
12 effectively and consistently in matters that do not
13 directly affect the joint parenting of the child;

14 (2) The residential circumstances of each parent; and

15 (3) all other factors which may be relevant to the best
16 interest of the child.

17 (d) Nothing within this section shall imply or presume that
18 joint custody shall necessarily mean equal parenting time. The
19 physical residence of the child in joint custodial situations
20 shall be determined by:

21 (1) express agreement of the parties; or

22 (2) order of the court under the standards of this
23 Section.

24 (e) Notwithstanding any other provision of law, access to
25 records and information pertaining to a child, including but
26 not limited to medical, dental, child care and school records,
27 shall not be denied to a parent for the reason that such parent
28 is not the child's custodial parent; however, no parent shall
29 have access to the school records of a child if the parent is
30 prohibited by an order of protection from inspecting or
31 obtaining such records pursuant to the Illinois Domestic
32 Violence Act of 1986, as now or hereafter amended.

33 (Source: P.A. 88-409.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".